

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 14 OF 2003

Peter Menon
Prisoner No.774
Central Jail, Aguada. ... Petitioner.

versus

State of Goa
(Through Inspector General
of Prisons, Panaji, Goa) ... Respondent.

Mr. S. G. Bhobe, Advocate appointed under Legal Aid
Scheme.

Mr. S. N. Sardessai, Public Prosecutor for the State.

CORAM: P. V. HARDAS, J.

DATED: 12TH JUNE, 2003.

ORAL JUDGMENT

Rule. Rule made returnable forthwith by
consent of learned Counsel for the parties.

2. This Petition has been filed by the
Petitioner who is undergoing sentence of Rigorous
Imprisonment for 10 years and fine of Rs.1,00,000/- in
default S.I. for 3 years, for an offence punishable
under Sections 20(b)(ii), 21 and 22 of the N.D.P.S.
Act, 1985 in Special Criminal Case No.27 of 1992. It
is stated that the Petitioner has served out a
substantive sentence and since he has not paid the

fine, he is undergoing default sentence of 3 years out of which, he has undergone nearly half the sentence. The Petitioner applied for parole on 31st October, 2002 on the ground that his daughter aged about 11 years, who is a spastic child with profound mental retardation, requires medical attention and treatment. It is also stated that there is no other earning member in the family to support his wife and daughter. Along with the present Petition, the Petitioner has also annexed a Certificate dated 3rd June, 2002, issued by the Professor and Head, Department of Paediatrics, Goa Medical College, Bambolim, Goa. A perusal of the said Certificate reveals that the said daughter of the Petitioner is a case of profound mental retardation and severe physical handicap of more than 90%. She is unable to sit nor even hold her head steady and is required to be fed in the lying down position. In order to train her in self help skills the presence and co-operation of both the parents is essential.

3. The learned Inspector General of Prisons, Panaji, Goa, by his Order dated 27th January, 2003, rejected the application for parole filed by the Petitioner. The Petitioner had applied for 180 days of parole. In the Order of the learned Inspector General of Prisons, Panaji, Goa, in para 2, it is stated that after the matter was enquired into by the Police, it

was revealed that the grounds cited in the parole application are genuine. The only ground on which the application was rejected was that there appeared to be a possibility of the Petitioner involving himself in drug trafficking if released on parole.

4. From the Affidavit filed by the learned Inspector General of Prisons, Panaji, Goa, it is revealed that the Petitioner had been earlier granted parole for a period of 30 days from 19th April, 2002 to 18th May, 2002 and the same was extended for a further period of 5 months from 18th May, 2002 to 10th October, 2002. The Affidavit does not reveal that there are any adverse circumstances reflecting the misuse of the release on parole by the Petitioner. Similarly, from the Affidavit, it does not appear that the Petitioner was granted parole earlier and he had indulged in drug trafficking. The reason for rejecting the parole on the ground that the Petitioner is likely to indulge in drug trafficking is wholly without any basis.

5. According to me, looking to the sickness of the daughter of the Petitioner, the Petitioner deserves to be released on parole on humanitarian ground for a period of 30 days. There is nothing adverse against the Petitioner to disentitle the Petitioner from being released on parole. Therefore, according to me, the

Petitioner is entitled to be released on parole.

6. In the result, the Order impugned in the Petition dated 27th January, 2003, rejecting the parole application of the Petitioner is hereby quashed and set aside and it is directed that the Petitioner be released on parole for a period of 30 days from the date of his period of release on the conditions relating to furnishing of surety etc.as per the Rules.

7. Rule made absolute in the above terms with no order as to costs.

8. Copy of this Order be sent to the Petitioner who is stated to be in Jail.

P. V. HARDAS, J.

RD.